

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

SRT COMMUNICATIONS, INC.

Employer

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 714,
AFL-CIO

Petitioner

Case 18-RC-16612

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

¹ The Employer, SRT Communications, Inc., is a North Dakota corporation with offices and places of business in Minot, North Dakota, where it is engaged in providing telecommunications services. During the calendar year ending December 31, 1999, a representative period, the Employer derived gross revenues in excess of \$1,000,000 from its operations, and purchased and received goods and materials valued in excess of \$50,000 at its Minot, North Dakota facilities directly from suppliers outside the State of North Dakota.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner seeks to add the outside plant (“OSP”) records specialist classification to the existing unit of employees employed at the Employer’s Minot, North Dakota facilities. The unit currently includes central office technicians, wireless technicians, communications systems technicians, splicer technicians, combination technicians, OSP installers, TV technicians, computer technicians, OSP support specialists, framepersons, provisioning clerks, and OSP laborers. Contrary to the Petitioner, the Employer contends that the OSP records specialists are clerical employees who primarily perform data entry functions for non-unit engineers; and, thus, that the OSP records specialists do not share a community of interest with the employees in the existing, predominantly technical bargaining unit.

The Employer is a telecommunications company located in Minot, North Dakota. It maintains three facilities in the Minot area including a headquarters building, a central office in downtown Minot, and a store. The Employer employs approximately 210 employees. Approximately 65 employees are currently in the existing bargaining unit represented by the Petitioner. The Employer employs approximately 80 office clerical employees which include accounting clerks, billing clerks, public relations clerks, data processing employees, and customer service employees. The OSP support specialists, a bargaining unit job classification, and the OSP records specialists report to the service center manager, Sue Bovee. The record

does not reflect to whom the technicians and office clerical employees report. The remaining employees occupy various supervisory, managerial, and professional positions.

The technicians spend a majority of their time in the field. However, each technician classification has a space in either the headquarters building or the Employer's central office in downtown Minot. The central office technicians, wireless technicians, and framepersons report to the central office. The communications systems technicians, splicer technicians, combination technicians, OSP installers, TV technicians, and computer technicians report to the Employer's headquarters facility. The OSP support specialists are located in the service department at the headquarters building, and the provisioning clerk works in a storage or warehouse area at the headquarters facility. The OSP records specialists are located in the engineering department at the headquarters building. The engineering department is approximately 20 yards away from the service center. The service center is adjacent to the technicians' areas and the provisioning clerk's area.

The existing bargaining unit consists of technicians and employees who provide support services to the technicians. Essentially, the technicians are responsible for installing and maintaining the Employer's equipment so that it can provide telecommunications services to its customers. However, not all of the employees in the bargaining unit work in the field on the Employer's equipment. For instance, the OSP support specialists, as their title suggests, provide support to the technicians in the field. They work in the service center and are responsible for testing telephone lines, dispatching the proper technicians to make repairs, and other support duties. Also, the provisioning clerk works out of the warehouse area of the headquarters facility and is responsible for issuing materials for the technicians to use in the field.

The OSP records specialists create and maintain records of all the telephone cables, junction boxes, wires, connections and other equipment of the Employer. The records they create are entered into the main computer system and are used by both the engineering department and the technicians. Additionally, when the technicians alter something in the field, they report it to the OSP records specialists so that the plant records can be updated. While not considered technical employees, the record establishes that the OSP records specialists are required to have some technical expertise in order to perform their duties.

In addition to creating and maintaining the records, the OSP records specialists perform other functions as well. First, when a new service is being created, the work order is sent to the engineers to design a method of delivering the service. After the engineers design a method to deliver the service, the OSP records specialists interpret the engineers' designs and write a "cut sheet." A cut sheet is basically a detailed blueprint of the engineers' designs. Approximately 200 cut sheets, which range in length from one to 50 pages, are produced each year. After a cut sheet is produced, a meeting is held between the engineer, the OSP records specialists, the OSP support specialists, and the technician who will perform the work. The technician then takes the blueprint and performs the work in the field.

Second, when customers have problems with their telephone service, the OSP records specialists have a role in fixing the problem. The employees refer to such problems simply as "trouble." When there is trouble, the customer will call the Employer. The call gets routed to the OSP support specialists, who test the line in an attempt to determine what is causing the trouble. The OSP support specialists then contact the OSP records specialists to find out how the service is set up and what options are available for fixing the trouble. The OSP support

specialists then dispatch the appropriate technician to the site. This dispatching function used to be done by the OSP records specialists.

Third, when technicians in the field need additional information, they contact the OSP records specialists directly. The job description of the OSP records specialists includes as an essential function the “ability to provide detailed instruction or information to outside plant personnel on service requests, trouble reports, and cable rearrangements.”

The record shows that OSP records specialists interact with bargaining unit employees to at least some extent. Ms. Bovee testified that the actual time they spend directly communicating with unit employees amounts to only 10 percent of their work time. OSP Records Specialist Lisa Stuber agreed that less than 10 percent of her work time is spent directly communicating with unit employees. However, her testimony and Petitioner's Exhibit 2² establish that she has more frequent contact with unit employees than non-unit employees. Ms. Stuber testified, without contradiction, that Petitioner's Exhibit 2 represents a typical week. The record also establishes that a significant amount of the OSP records specialists' time is spent working on the cut sheets that are used by the technicians when performing their work in the field.

Ms. Bovee, the service manager, supervises both the OSP support specialists and the OSP records specialists. No other job classifications report to Ms. Bovee. Prior to about 1997, the OSP records specialists were called engineering aides. The change in title did not reflect a change in duties. The engineering aides were excluded from the unit of employees represented by the Petitioner. Until November 1999, the OSP records specialists were supervised by the

² The hearing officer received Petitioner's Exhibit 2 over the Employer's hearsay objection. I have considered this exhibit only insofar as it relates to Stuber's testimony concerning her own duties and not insofar as it purports to reflect the contacts by the other two OSP records specialists. However, I also note that there is no record evidence that Stuber's duties, including the frequency and kind of contacts she has with bargaining unit and non-bargaining unit employees, are any different than those of the other two OSP records specialists.

engineers. However, the Employer changed the organizational structure in November 1999 “to eliminate some red tape.”

Both the unit employees and the OSP records specialists are paid hourly and work similar shifts. The OSP records specialists are not regularly scheduled to work on Saturdays, while the OSP support specialists are. The OSP records specialists do not regularly work overtime, but the unit employees do. However, when there is trouble, a records specialist will be called in to work overtime until the trouble is resolved.

Finally, the job descriptions offered by the Employer demonstrate that the essential functions and skills of the OSP support specialists and the OSP records specialists are similar. Employees in each job classification work with other employees to provide services to the Employer’s customers, maintain appropriate records of work activities, communicate with internal and external customers, and operate personal computers. Employees in one classification do not fill in for employees, or work temporarily in the other classification.

The Employer’s office clerical employees include accounting clerks, billing clerks, public relations clerks, data processing employees, and customer service employees. Unlike the OSP records specialists, OSP support specialists, and technicians, none of these office clerical classifications deals, directly or indirectly, with the Employer’s cables, junction boxes and other hardware. The record contains virtually no evidence as to the exact duties of the office clerical employees; how, if at all, their duties compare to those of the OSP records specialists; or how, if at all, they interact with the OSP records specialists.

In its post-hearing brief, the Employer contends that the OSP records specialists lack a community of interest with the bargaining unit employees based on seven factors. First, the Employer argues that the OSP records specialists receive different wages and have different

opportunities for overtime than the unit employees. However, the record establishes that while the OSP records specialists are paid on a different wage scale, they receive an hourly wage that is comparable to some unit employees and work at least some overtime. Accordingly, I conclude that the differences in wage scales and opportunities for overtime are insufficient to demonstrate the absence of a community of interest.

Second, the Employer contends that OSP records specialists lack a community of interest with the unit employees because they work different hours. The record shows that the OSP records specialists work 7:30 a.m. to 4:00 p.m. and 8:00 a.m. to 5:00 p.m. shifts Monday through Friday. The unit employees work 7:30 a.m. to 4:00 p.m., 8:00 a.m. to 5:00 p.m., and 9:00 a.m. to 6:00 p.m. shifts Monday through Friday and an 8:30 a.m. to 4:00 p.m. shift on Saturdays. Although the OSP records specialists are not regularly scheduled to work on Saturdays, they can be called in if there is trouble. These minor differences in work schedules are insufficient to demonstrate that OSP records specialists lack a community of interest with bargaining unit employees.

Third, the Employer contends that there is a lack of common supervision between the OSP records specialists and unit employees. As detailed above, however, Ms. Bovee supervises both the OSP records specialists and the OSP support specialists, a bargaining unit job classification. In view of this overlap, I conclude that any differences in the supervision of the OSP records specialists and other unit employees do not demonstrate that they lack a community of interest.

Fourth, the Employer contends that the OSP records specialists perform different job functions than the unit employees. The record demonstrates that OSP records specialists have more frequent contact with unit employees than with non-unit employees. The record further

demonstrates that the OSP records specialists, like the OSP support specialists and provisioning clerk, perform duties that directly support the performance of various of the technicians' duties. Accordingly, the difference in duties performed by OSP records specialists and bargaining unit employees is insufficient to demonstrate the absence of a community of interest.

Fifth, the Employer argues that the differences in skills and necessary training shows a lack of community of interest. Although the record does not indicate the precise level of technical training required to carry out the duties of the unit employees, it may be assumed that the technicians have some level of technical training. However, the record also shows that the OSP records specialists likewise require some technical knowledge. Accordingly, this factor is not dispositive of the OSP records specialists' community of interest.

Sixth, the Employer contends that several of the unit classifications perform their duties away from the Employer's headquarters facility, while the OSP records specialists work exclusively in that facility. This argument overlooks the fact that other unit classifications, specifically the OSP support specialists and the provisioning clerk, also work exclusively at the Employer's headquarters facility. This factor simply does not support the Employer's contention that there is a lack of community of interest.

Seventh, the Employer argues that the OSP records specialists' history of exclusion from the unit demonstrates a lack of community of interest with the unit employees. However, the structure of supervision was recently changed such that there is now common supervision between the OSP records specialists and the OSP support specialists. Given this fact, the bargaining history is not dispositive with respect to the continued exclusion of the OSP records specialists from the unit.

On the basis of the foregoing and the record as a whole, I conclude that the duties of the OSP records specialists are analogous to those of plant clerical rather than office clerical employees, and that the OSP records specialists share a sufficient community of interest with the existing bargaining unit employees to warrant their inclusion in the unit. The Board has long held that the distinction between plant clerical and office clerical employees is rooted in community of interest concepts. Minneapolis-Moline Co., 85 NLRB 597, 598 (1949). To that end, the duties and functions of plant clericals relate to the production or service process while the duties and functions of office clericals relate to general office operations. Syracuse University, 325 NLRB No. 15 (1997) 1997 WL 7244896 p. 7. “Plant clerical employees are typically included in a production and maintenance unit because they generally share a community of interest with the employees in the unit.” Id., citing Raito Co., 228 NLRB 646 (1977), and Armor and Co., 119 NLRB 623 (1957).

In Central Power & Light Company, 195 NLRB 743 (1972), the petitioner sought to represent a unit of production and maintenance employees, including the employer’s engineering assistants. The production and maintenance employees were responsible for producing and delivering power to the employer’s customers. Id. at 745. The employer argued that the engineering assistants were office clerical employees and should not be included in the unit. Id. at 746. The Board found that while the engineering aides were responsible for record keeping, they spent a majority of their time designing and drawing plans to show alterations of existing facilities to be installed to accommodate the needs of particular customers. Id. Based on this fact, the Board held that the engineering assistants were plant clerical employees who shared a sufficient community of interest with the production and maintenance employees to warrant their inclusion in the unit. Id.

The OSP records specialists, like the engineering assistants in Central Power & Light Company, are responsible for maintaining the plant records of the Employer's customers. Furthermore, the OSP records specialists spend a significant amount of their time drawing and preparing cut sheets, which are detailed plans showing how services can be provided to a particular customer. Additionally, the record demonstrates that the duties and responsibilities of the OSP records specialists directly relate to the provision of services to the Employer's customers by the technicians. In these circumstances, and particularly because of the functional integration of their job duties with the job duties of bargaining unit employees, their overlapping supervision, regular contact, similarity of general working conditions, and the absence of any evidence affirmatively establishing that the OSP records specialists share a community of interest with the office clerical employees, I conclude that the OSP records specialists share a sufficient community of interest with the bargaining unit employees to warrant their inclusion in the existing unit.

6. The following employees of the Employer would constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time central office technicians, wireless technicians, communications systems technicians, splicer technicians, combination technicians, OSP installers, TV technicians, computer technicians, OSP support specialists, framepersons, provisioning clerks, OSP laborers, and OSP records specialists employed at the Employer's Minot, North Dakota facilities; excluding all other employees, guards, and supervisors as defined in the Act, as amended.

Accordingly, I shall direct an election among the employees in the following described voting group found appropriate:

All full-time and regular part-time OSP records specialists employed at the Employer's Minot, North Dakota facilities;

excluding all other employees, guards, and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION³

An election by secret ballot will be conducted by the undersigned among the employees in the voting group found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Armour & Co., 40 NLRB 1332 (1942); Globe Machine & Stamping Co., 3 NLRB 294 (1937). Eligible to vote are those in the voting group who were employed during the payroll period ending immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁴

³ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **April 13, 2000**.

⁴ To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the

Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by the International Brotherhood of Electrical Workers, Local 714, AFL-CIO. If a majority of valid ballots are cast for the International Brotherhood of Electrical Workers, Local 714, AFL-CIO, they will be taken to have indicated the employees' desire to be included in the existing bargaining unit currently represented by International Brotherhood of Electrical Workers, Local 714, AFL-CIO. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees' desire to remain unrepresented.

Signed at Minneapolis, Minnesota, this 30th day of March, 2000.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
Eighteenth Region
National Labor Relations Board

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Regional Director within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the Minneapolis Regional Office, Suite 790, Towle Building, 330 Second Avenue South, Minneapolis, MN 55401-2221, on or before **April 6, 2000**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.